IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.550 of 2007.

Date of decision: 10.8.2007.

Sunil Kumar ……. **Petitioner**

Vs.

State of H.P. …. **Respondent.**

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting? ***No***

For the Petitioner : **Mr. T.S Chauhan, Advocate.**

For the Respondent : **Mr. Ashok Chaudhary, Additional Advocate General.**

Kuldip Singh, Judge. **(Oral)**

This is an application under Section 439 Cr.P.C. for releasing the petitioner on bail in FIR No. 130/06 registered at Police Station, Ghumarwin, District Bilaspur on 7.8.2006 under Sections 397/34 IPC. As per petitioner, the prosecution case is that Rajender Kumar complainant had reported that on 7.8.2006, the petitioner and other accused hired the taxi of the complainant and when they reached their destination they gave him beatings with fist blows, one accused Shoki snatched the key of the Van and drove it away. The petitioner was arrested on the next day and taxi was recovered on the same day. The trial Court has denied the bail on the ground that he is a habitual offender. According to petitioner, he is not main accused in any of the

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Whether the reporters of the local papers may be allowed to see the Judgment? Yes

cases registered against him. The FIRs mentioned in the order of learned Sessions Judge were lodged due to enmity and petitioner is already on bail in those cases.

The petitioner has been falsely implicated in the case due to enmity. The petitioner is in custody since 8.8.2006. The petitioner earlier filed bail application which has been dismissed by learned Sessions Judge, Bilaspur on 2.7.2007. The petitioner is youngman and only bread earner of the family and has immovable property in District Bilaspur. On these grounds, the petitioner has filed the application for releasing him on bail.

The application has been opposed by learned Addl. Advocate General who has submitted that on 7.8.2006 complainant Rajender Kumar driver was at Dharamshala hospital with his taxi, three persons came to him and hired his taxi on the ground that another person who was weeping has lost his father and therefore, all of them wanted to go to Ghumarwin. Accordingly, he along with those persons went to Ghumarwin and reached there at about 4 P.M. and on their asking took the taxi inside the hospital premises. One of them went out the taxi to meet a person sitting on the counter of the Sethi Medical Store and again came in the taxi and asked the complainant that their houses are 5-6 K.M. away . At about 4.20 P.M. at a loneliness place they asked him to stop the vehicle and forced him to come out from the taxi. They gave him beatings and took the key of the taxi. Thereafter the case was registered against the accused persons.

The learned Addl. Advocate General has stated that the challan has already been filed in the Court against petitioner and others and

four witnesses have already been examined. The next date of hearing in the Court is fixed on 6.9.2007. He has submitted that against Sunil Kumar petitioner FIR No.101/04, dated 25.5.2004 under Sections 279, 337 IPC, FIR No.230/04 dated 20.10.2004 under Sections 341, 325, 323, 506(B) 34 IPC and FIR No.147/05 dated 1.8.2005 under Sections 364, 302, 396 and 120-B IPC were registered at Police Station, Barmana, District Bilaspur and cases are pending against him but he is on bail on those cases. The petitioner had filed application before learned Sessions Judge, Bilaspur for releasing him on bail in the present FIR which has been dismissed on 2.7.2007. There is no change of circumstance after the order dated 2.7.2007. The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case but he has failed to explain how petitioner was present in the taxi at the time of occurrence . The petitioner appears to be habitual offender. Three more cases are pending against him. In the facts and circumstances of the case, he is not entitled to bail. More particularly, when the trial in FIR No.130/06 is in progress. The petition is dismissed. The observations made in the order shall not be construed as expression of opinion on the merit of the case.

(Kuldip Singh)
Judge

August 10, 2007
(sks)